

REMARKS

Claims 1, 6-13, 15, 19-22, 31, 33, 34, 36, 37 and 39-41 are pending in the above-captioned patent application after this amendment. Claims 1, 6-13, 15, 19-22, 31, 33, 34, 36, and 37 have been rejected and claims 39-41 have been allowed. The Applicant respectfully disagrees with the rejections of at least some of the claims. However, claims 1, 12, 13, 20, 21, 31 and 36 have been amended for the purpose of expediting the patent application process in a manner consistent with the goals of the Patent Office pursuant to 65 Fed. Reg. 54603 (September 8, 2000), even though the Applicant believes that at least some of the previously pending claims were allowable. Support for the amendments can be found in the originally filed claims and specification. In particular, support for the amendments can be found on Pages 13 -17 and Figures 2A -2D. No new matter is believed to have been added by this amendment. Reconsideration of the pending application is respectfully requested.

INTERVIEW SUMMARY

On January 31, 2006, the undersigned and the applicant conducted a telephonic interview with the Examiner. During the interview, the Examiner indicated that he believed that the draft claims overcome the cited references however, another search may be necessary. Further, the Examiner agreed to contact the undersigned in the event the claims were not in condition for allowance. The applicant wants to thank the Examiner for his time.

Rejections Under 35 U.S.C. § 102(b)

Claims 1, 6-13, 15, 19-22, 31, 33, 34, 36, and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Scott et al. in view of Katzman. The Applicant respectfully submit that the rejection of claims 1, 6-13, 15, 19-22, 31, 33, 34, 36, and 37 is unsupported by the art and should be withdrawn.

The Applicant provides that Scott et al. is directed to an irrigation system that includes a generator that operates to charge and sustain a storage battery. The battery powers a receiver that can be used to open or close a valve that provides fluid to irrigate an area. (Abstract). It should be noted that the generator disclosed in Scott et al. is positioned away from the nozzle that releases the fluid. In fact, the nozzle is not even shown in Figure of Scott et al. As a result thereof, Scott et al, does not teach or

disclose an irrigation unit that includes a housing, a nozzle secured to the housing, an electronic component that is secured to the housing, and a generator secured to the housing.

Katzman is directed to a shower accessory that includes a housing, an electrically powered device such as a radio positioned in the housing, an impeller positioned in a fluid passageway, a generator that is rotated by the impeller, and a shower outlet. Electrical power from the generator powers the radio. (Abstract)

In distinction to cited references, claim 1 of the present application is directed to an “irrigation unit … comprising: a housing; a nozzle that is secured to the housing, the nozzle being in fluid communication with the fluid source so that fluid from the fluid source is transferred to the nozzle and released from the nozzle to the area, the nozzle being movable between a retracted position wherein the nozzle is positioned within the housing and an extended position wherein the nozzle extends above the housing; an electronic component that is positioned within the housing; and a power generator that generates electrical energy, the power generator directly transferring at least a portion of the electrical energy to the electronic component, the power generator including a generator and a turbine that is in fluid communication with the fluid source, wherein the flow of the fluid from the fluid source to the nozzle causes the turbine to rotate the generator to generate electrical energy.”

Because the cited references do not disclose all of the elements of claim 1, the § 103 rejection is unsupported by the art and should be withdrawn. Because claims 6-11 depend either directly or indirectly upon claim 1, the rejection of these claims under 35 U.S.C. § 103 is also unsupported by the art and should be withdrawn.

Further, claim 12 of the present application is directed to an “irrigation unit … comprising: a housing; a nozzle that is secured to the housing, the nozzle being in fluid communication with the fluid source so that fluid from the fluid source is transferred to the nozzle and released from the nozzle to the area; an electronic component assembly secured to the housing, the electronic component assembly including an electrical rotator that rotates the nozzle about a portion of an axis relative to the housing; and a power generator including a generator and turbine that rotates the generator to generate electrical energy, the power generator being secured to the housing, the

power generator being electrically connected to the electronic component.”

Because the cited references do not disclose all of the elements of claim 12, the § 103 rejection is unsupported by the art and should be withdrawn. Because claims 13, 15, and 19-22 depend either directly or indirectly upon claim 12, the rejection of these claims under 35 U.S.C. § 103 is also unsupported by the art and should be withdrawn.

Additionally, claim 31 of the present application is directed to a “method ... comprising the steps of: providing a housing; securing a nozzle to the housing, the nozzle being in fluid communication with the fluid source so that fluid from the fluid source is transferred to the nozzle and released from the nozzle to the area; securing an electronic component assembly to the housing, the electronic component assembly including a control system having a processor for processing data; and directly transferring electrical energy from a power generator to the electronic component, the power generator including a rotating turbine that rotates a generator to generate electrical energy, the power generator being secured to the housing.”

Because cited references do not disclose all of the elements of claim 31, the § 103 rejection is unsupported by the art and should be withdrawn. Because claims 33-34 depend either directly or indirectly upon claim 31, the rejection of these claims under 35 U.S.C. § 103 is also unsupported by the art and should be withdrawn.

Further, claim 36 of the present application is directed to a “method ... comprising the steps of: providing a housing; securing a nozzle to the housing, the nozzle being in fluid communication with the fluid source so that fluid from the fluid source is transferred to the nozzle and released to the area, the nozzle being movable between a retracted position wherein the nozzle is positioned within the housing and an extended position wherein the nozzle extends above the housing; securing an electronic component to the housing; storing electrical energy with a power storage unit that is electrically connected to the electronic component, the power storage unit being positioned within the housing; and directly transferring electrical energy from a power generator to the electronic component, the power generator including a rotating turbine that rotates a generator to generate electrical energy, the power generator being positioned within the housing.”

Because the cited references do not disclose all of the elements of claim 36, the

§ 103 rejection is unsupported by the art and should be withdrawn. Because claim 37 depends upon claim 36, the rejection of this claim under 35 U.S.C. § 103 is also unsupported by the art and should be withdrawn.

Additionally, the Appellant submits that there is no motivation to combine the shower radio of Katzman with the irrigation system of Scott et al.. “The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the Appellant’s disclosure.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991; Emphasis added). In the present case, neither is found.

Moreover, the Applicant submits that Katzman is non-analogous art. The rejection by the Patent Office under 35 U.S.C. §103(a), which is based on Katzman is improper because a skilled artisan in the field of controlling gram load of a slider in a disk drive would not be expected to search nonanalogous art such as Katzman, which pertains to a shower head radio. The Federal Circuit has stated that nonanalogous art is inadmissible evidence of whether or not an invention was obvious under 35 U.S.C. §103(a). *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). The determination of whether prior art is analogous involves determining (i) whether the reference is within the field of the invention’s endeavor; or (ii) if the reference is not within the field of the endeavor, whether the field of the reference is reasonably pertinent to the particular problem. *Id.* As a consequence, the Appellant submits that the rejection of the claims under 35 U.S.C. § 103 is improper and should be withdrawn.

Conclusion

In conclusion, the Applicant respectfully asserts that claims 1; 6-11, 12, 13, 15, 19-22, 31, 33, 34, 36, 37 and 39-41 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 858-456-1951 for any reason that would advance the instant application to issue.

Dated the 31st day of January, 2006.

Respectfully submitted,



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